



AGENDA

COMMITTEE OF THE WHOLE WORKSESSION

TUESDAY, JULY 16, 2024

5:30 PM

CITY HALL LARGE CONFERENCE ROOM #119

1. Planning Department:
 - a. Property Assessed Clean Energy (PACE) program presentation, Mary Freeman, Lean & Green Michigan.
2. Mayor's Office:
 - a. Recommend resolution for [Notice of Intent to Bond](#).
3. 62-B District Court:
 - a. Discussion on [Indigent Defense services](#).

PUBLIC COMMENT.

The City of Kentwood does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities. The Human Resources Director, 4900 Breton Ave., SE has been designated to coordinate compliance with the non-discrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the American with Disabilities Act, and the rights provided thereunder, are available from the ADA coordinator.



Property Assessed Clean Energy (PACE)

City of Kentwood
July 16th, 2024

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Meet our Team



Todd Williams
President and General Counsel



Mary Freeman
Owner and Outreach



Jon Wylie
Senior Counsel



Meghan Ross
Communications and Business Associate

www.leanandgreenmi.com



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PACE In Michigan

PACE was established by the Michigan Property Assessed Clean Energy Act (PA 270, 2010).

Lean & Green Michigan is public-private partnership launched in 2012 that **serves 59 counties, cities and townships** in Michigan, comprising **over 75% of Michiganders**.



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Problem

Energy efficiency, water efficiency, and renewable energy projects can be expensive.

Traditional financing tools require large, up-front capital investment for a slow, long-term payback, providing little incentive for businesses to undertake these projects.

INTRODUCTION

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INTRODUCTION

Solution

PACE financing allows a property owner to voluntarily enter into a special assessment agreement, which can be repaid over a period of up to 25 years.



Local governments get a free economic development tool.



Property owners get 100 percent up-front financing and a fixed interest rate.



PACE lenders get the security of a property lien created by the special assessment.



lean & green
MICHIGAN[™]

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Property Owner

- Business
- Hospitality
- Industrial/Agricultural
- Mixed Use
- Multi-family
- Nonprofit
- Senior Living

Contractor

- Design Project
- Provide energy audit
- Guarantee SIR>1

**PACE
PROCESS**

Local Government

- Provide security through special assessment
- Support local economic development

Lender

- Provide financial capital
- Underwriting process

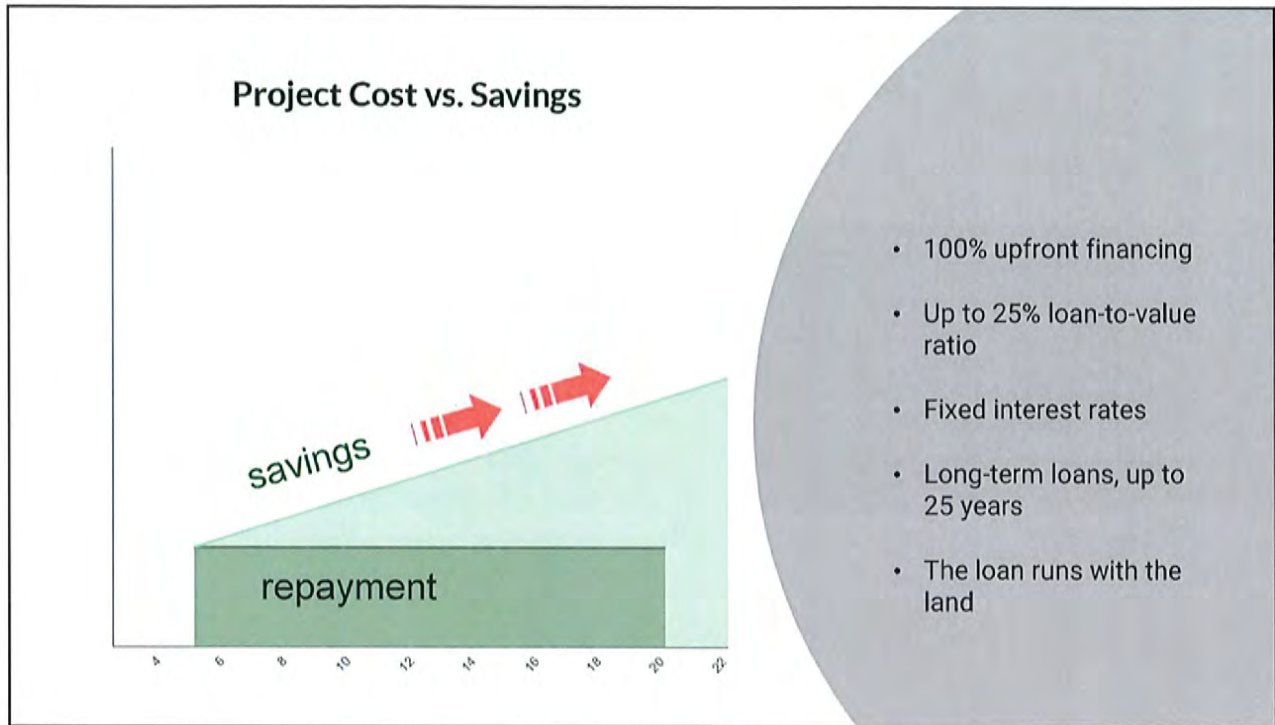
LAGM

- Coordinate parties
- Administer on behalf of local governments
- Screen for eligible projects

www.leanandgreenmi.com




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Qualified Properties:



- Commercial & Industrial** hotels, hospitals, restaurants, office buildings, senior living & more
- Multifamily housing (4+)** both market-rate and low-income apartment buildings
- Agricultural** farms, wineries



- Nonprofits** houses of worship, private schools, cooperatives & more

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Qualified PACE Upgrades:



Energy efficiency: lighting, HVAC, windows, EV charging, insulation, roofing, caulking



Water efficiency: stormwater recapture, low-flow toilets/sinks/showerheads, greywater systems, green roof, permeable pavement



Renewable Energy: solar energy, solar roofs, wind energy, geothermal, CHP

Environmental Hazards: mitigation of lead and PFAS contamination, protection against severe weather including flood and drought

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EV charging stations are eligible

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PACE Amendments – February 2024

Senate Bills SB302 and SB303.

- Property owners will have the option to waive the SIR and savings guarantee for projects.
- New PACE construction projects are now required to be built above Michigan’s energy code, but will no longer require a savings to investment ratio (SIR) or savings guarantee.
- Expands PACE to allow for the financing of Environmental Hazard PACE: mitigate harmful substances from drinking water, mitigate the effects of flood or drought, increase the resiliency of the property against severe weather, and mitigate lead paint contamination.

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HUD Approved! April 1, 2024

I am pleased to advise you of my determination that the Michigan Lean and Green PACE Program is approved...

- There are some HUD specific requirements for a successful PACE project:
 - Payments must be collected with the tax bills (no direct billing)
 - Notice of default provided to mortgage lender.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Michigan, Michigan
2000 Grand Central
4720 Michigan
Detroit, MI 48226

April 1, 2024

To: Mr. Williams
President and General Counsel
Lean & Green Michigan
200 Teichgraber
Detroit, MI 48226

Subject: Property Assessed Clean Energy (PACE)
Michigan Lean and Green Property Assessed Clean Energy
PACE Program Assessment Approval

Dear Mr. Williams:

This letter responds to the November 6, 2023 request for HUD review of the PACE Assessment Procedures of the Michigan Lean and Green PACE program under your administration, and a determination as to its compliance with HUD's required Assessment Procedures promulgated in Housing Notice R-2017-01 (the "Notice"), which provides the conditions for determining if a PACE program is compatible with HUD's multifamily housing programs. In addition to the November 2023 request, you also provided subsequent responses to requests and subsequent to HUD's HUD has been provided with a detailed description of the operation of the Michigan program, together with an opinion from the Office of the Michigan Attorney General.


I am pleased to advise you of my determination that the Michigan Lean and Green PACE Program is approved as described more fully below. My determination was based on the following criteria and conclusions:

- The special assessment will be assessed by a state, county or independently pursuant to state law and not with tax bills.**
 - This condition has been satisfied in the Michigan Lean and Green PACE Program Draft Manual (Section 12.3) and Draft Model Agreement (Section 4.1)
- Payments on the special assessment will be collected with tax bills.**
 - This condition has been satisfied in the Michigan Lean and Green PACE Program Draft Manual (Section 12.4) and Draft Model Agreement (Section 4.02)
- At any time, the only obligation to the state is the payment of the special assessment, with no acceleration of the entire assessment amount.**
 - This condition has been satisfied in the Michigan Lean and Green PACE Program Draft Manual (Section 7.02) and Draft Model Agreement (Section 7.02)


Yours faithfully,
The Assistant Secretary for the U.S. Department of Housing and Urban Development
Michigan Office

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MARKET DATA



82
PACE projects financed since 2015



\$293 million
Private investment

LEAN & GREEN'S IMPACT	
kWh of Electricity Savings	632,173,541
Metric Tons of CO2 Savings	1,166,594
Gallons of Water Saved	751,186,627
Money Saved	\$332,000,000
Jobs Created	3,294

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THANK YOU!

Get in touch :

mary@leanandgreenmi.com
info@leanandgreenmi.com

(313) 444 – 1474

www.leanandgreenmi.com

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**NOTICE OF INTENT RESOLUTION
CAPITAL IMPROVEMENT BONDS**

CITY OF KENTWOOD
County of Kent
State of Michigan

Minutes of a regular meeting of the City Commission of the City of Kentwood, County of Kent, State of Michigan, held on the 2nd day of July, 2024, at 7:00 p.m., prevailing Eastern Time.

PRESENT: Commissioners _____

ABSENT: Commissioners _____

The following preamble and resolution were offered by Commissioner _____ and supported by Commissioner _____:

WHEREAS, the City Commission of the City of Kentwood (the “City”) intends to issue general obligation limited tax bonds pursuant to Act 34, Public Acts of Michigan, 2001, as amended (“Act 34”), in one or more series, in an aggregate principal amount of not to exceed Twenty-Five Million Dollars (\$25,000,000) (the “Bonds”) for the purpose of paying all or part of the costs of acquiring, constructing, furnishing and equipping certain capital improvement projects within the City, including necessary rights of way, site improvements and ancillary facilities therefor, consisting generally of (i) acquiring, constructing, furnishing and equipping a new community center and (ii) renovating, expanding, furnishing, and equipping the Department of Public Works facility in the City (collectively, the “Project”); and

WHEREAS, a notice of intent to issue the Bonds must be published before the issuance of the Bonds in order to comply with the requirements of Section 517 of Act 34; and

WHEREAS, the City intends at this time to state its intentions to be reimbursed from proceeds of the Bonds for any expenditures undertaken by the City for the Project prior to issuance of the Bonds.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Notice of Intent Authorized. The City Clerk is authorized and directed to publish a notice of intent to issue bonds in the *Grand Rapids Press*, a newspaper of general circulation in the City.

2. Form of Notice of Intent. The notice of intent shall be published as a display advertisement not less than one-quarter (1/4) page in size in substantially the form attached to this resolution as Exhibit A.

3. Approval of Notice of Intent and Publication. The City Commission does hereby determine that the foregoing form of Notice of Intent to Issue Bonds and the manner of publication directed is the method best calculated to give notice to the City’s electors and taxpayers residing in the boundaries of the City of the City’s intent to issue the Bonds, the maximum amount of the

Bonds, the purpose of the Bonds, the source of payment for the Bonds and the right of referendum relating thereto, and the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed.

4. Reimbursement Declaration. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

- (a) The City reasonably expects to reimburse itself with proceeds of the Bonds for certain costs of the Project which were paid or will be paid from the funds of the City subsequent to sixty (60) days prior to today.
- (b) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is \$25,000,000.
- (c) A reimbursement allocation of the capital expenditures described above with the proceeds of the Bonds will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the Bonds to reimburse the City for a capital expenditure made pursuant to this resolution.

5. Bond Counsel. Miller, Canfield, Paddock and Stone, P.L.C. is hereby approved as bond counsel for the Bonds.

6. Municipal Advisor. Bendzinski & Co. Municipal Financial Advisors is retained as the registered municipal advisor to the City in connection with the issuance of the Bonds.

7. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Commissioners: _____

NAYS: Commissioners: _____

RESOLUTION DECLARED ADOPTED.

Dan Kasunic
City Clerk

I hereby certify that the attached is a true and complete copy of a resolution adopted by the City Commission of the City of Kentwood, County of Kent, State of Michigan, at a regular meeting held on the 2nd day of July, 2024, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976 and that minutes of the meeting were kept and will be or have been made available as required by said Act.

Dan Kasunic
City Clerk

EXHIBIT A

NOTICE TO TAXPAYERS AND ELECTORS OF THE CITY OF KENTWOOD OF INTENT TO ISSUE BONDS AND THE RIGHT OF REFERENDUM RELATING THERETO

PLEASE TAKE NOTICE that the City of Kentwood, County of Kent, State of Michigan (the "City"), intends to issue and sell its general obligation limited tax bonds pursuant to Act 34, Public Acts of Michigan, 2001, as amended, in one or more series, in an aggregate principal amount of not to exceed Twenty-Five Million Dollars (\$25,000,000) for the purpose of paying all or part of the costs of acquiring, constructing, furnishing and equipping certain capital improvement projects within the City, including necessary rights of way, site improvements and ancillary facilities therefor, consisting generally of (i) acquiring, constructing, furnishing and equipping a new community center and (ii) renovating, expanding, furnishing, and equipping the Department of Public Works facility in the City (the "Project").

SOURCE OF PAYMENT OF BONDS

THE PRINCIPAL OF AND INTEREST ON SAID BONDS SHALL BE PAYABLE from the general funds of the City lawfully available for such purposes including property taxes levied within applicable constitutional, statutory and charter tax rate limitations.

BOND DETAILS

SAID BONDS will be payable in not more than twenty-five (25) years from the date of issuance of each series of bonds and will bear interest at the rate or rates to be determined at a public or private sale but in no event to exceed the maximum rate permitted by law on the balance of the bonds from time to time remaining unpaid.

RIGHT OF REFERENDUM

THE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A PETITION REQUESTING SUCH A VOTE SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS RESIDING WITHIN THE BOUNDARIES OF THE CITY IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. IF SUCH PETITION IS FILED, THE BONDS MAY NOT BE ISSUED WITHOUT AN APPROVING VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS RESIDING WITHIN THE BOUNDARIES OF THE CITY VOTING THEREON.

THIS NOTICE is given pursuant to the requirements of Section 517, Act 34, Public Acts of Michigan, 2001, as amended.

Dan Kasunic
City Clerk
City of Kentwood



MEMORANDUM

TO: Mayor Stephen Kepley; Mayor Pro-Tem Robert Coughlin,
City Commission

FROM: Amanda H. Sterkenburg, District Court Judge

DATE: July 16, 2024

RE: Indigent Defense

ACTION REQUESTED: Information and discussion only. The 62B District Court seeks to discuss the status of indigent criminal defense services in Kentwood.

BACKGROUND: In 2018, the Michigan Indigent Commission Act (“the Act”) was passed. This created a Commission to ensure defense services for indigent defendants meet minimum standards and among other duties, ensure that the delivery of indigent defense services is independent of the judiciary.

Prior to the Act, the Court assigned indigent counsel and requested reimbursement from the City for their services; Kentwood had a very strong and reliable system, but abuses and deficiencies in other areas of the state prompted our legislators to make changes. Grant funding from the state is now made available to the funding unit, when in compliance with the Act, and the funding unit is responsible for developing the local indigent criminal defense system.

In 2019 and 2020, RFP’s solicited bids to provide these services for the City of Kentwood individually and then in cooperation with Wyoming and Grandville (“the Cities”). These resulted in the Cities contracting for the bulk of indigent defense to be performed by the Kent County Office of the Defender (KCOD). Upon information and belief, no RFP’s have been published since 2020 to solicit new services for indigent defense in Kentwood, or for the Cities, and an ongoing contractual relationship with KCOD has been renewed annually. All except one funding unit in Kent County has used the services of KCOD since the establishment of the Act.

In March of 2024, a report was authored by the National Association for Public Defense (NAPD) that was highly critical of the management of KCOD. As a result, in May 2024, a proposal was put before the Kent County Commission to establish a county-run defenders office. This proposal contemplated the Cities contracting with the county office to manage indigent defense appointments as well as grant and reporting requirements. It is generally presumed that the Cities would transition to using a county-run defenders office if established, but the proposal was met with significant public opposition and was tabled by the County Commission. As a result, it is the Court’s understanding that there is currently no approved plan for indigent defense for Kent County or the Cities. The current contract between the Cities and KCOD expires September 30, 2024.

It is the Court’s understanding that in anticipation of joining with the Kent County for services, no annual compliance plan for the Cities was submitted to the MIDC for indigent criminal defense services to begin October 1, 2024. Any system approved at this late hour will be difficult to implement by that date and if Kentwood chooses to contract for services under a county-run system, the Mayor and this Commission will understandably want to take the time to understand the plan and consider it. In 2019, a short timeline led to the decision to contract with KCOD when this Commission had to prioritize a decision in the face of new legislation. There are only four approved City Commission

dates between now and the end of the current contract for services. The City and Court, and the indigent defendants, may be disadvantaged if faced with the need to act without proper consideration.

The Court seeks guidance on ensuring that indigent defendants in Kentwood receive the highest quality of representation in a transitional time. Cases being initiated in the 62B District Court are currently being assigned to attorneys at KCOD and many of those cases will be ongoing across the threshold of the new MIDC fiscal year. Transitioning them all to new counsel will be disruptive to the Court's administration of justice and there is some concern that these individuals may lose representation entirely.

This situation overlaps with the addition of more police officers to the Kentwood Police Department and an increased need for indigent criminal defense services because of new case filings.

The Court requests that this Commission discuss the following:

1. Continuation of the relationship between KCOD and Kentwood until a county-run indigent criminal defense system, or Commission approved alternative, is fully functional;

Or,

An alternate plan for the appointment of representation in indigent criminal cases initiated in the 62B District Court beginning in August of 2024, if the City of Kentwood intends to completely discontinue a relationship with KCOD;

2. Initiating a study to determine the most appropriate indigent criminal defense system model for Kentwood and if managing a MIDC grant locally could benefit the City of Kentwood.
3. Soliciting information about other organizations that could provide criminal indigent defense services in Kentwood through an updated RFP.

If you have any questions or would like more historical information about indigent defense in Kentwood, please contact Judge Amanda Sterkenburg at (616) 554-0717 or by emailing her at sterkenburga@kentwood.us.

Thank you for your consideration.

AH Sterkenburg P78270